

**APPROVED MINUTES\***  
**SUNNYVALE CITY COUNCIL MEETING**  
**TUESDAY, JANUARY 8, 2008**

**6 P.M. SPECIAL COUNCIL MEETING**

**7 P.M. REGULAR MEETING**

**SALUTE TO THE FLAG**

Mayor Lee led the salute to the flag.

**ROLL CALL**

**PRESENT:**

Mayor Otto Lee  
Vice Mayor Anthony Spitaleri  
Councilmember John Howe  
Councilmember Dean J. Chu  
Councilmember Ron Swegles  
Councilmember Melinda Hamilton  
Councilmember Christopher Moylan

**ABSENT:**

None

**STAFF PRESENT:**

City Manager Amy Chan  
Assistant City Manager Robert Walker  
City Attorney David Kahn  
Director of Community Development Hanson Hom  
City Clerk Gail Borkowski

**CONSENT CALENDAR**

Councilmember Howe moved and Vice Mayor Spitaleri seconded to approve the consent calendar.

VOTE: 7-0

**1.A. RESOLUTION Certification of 2007 Election Results as to Council Seats Only  
RTC 08-005**

City Clerk Gail Borkowski presented the staff report.

Staff recommendation: Council adopts Resolution certifying November 6, 2007 Consolidated General and Municipal Election results as to Council seats only

Mayor Lee recognized dignitaries in the audience and then recognized Councilmember Dean Chu.

**SPECIAL ORDER OF THE DAY** – Recognition of outgoing Councilmember Dean J. Chu and remarks.

**SPECIAL ORDER OF THE DAY** – Ceremonial oath of office for Council-elect, Otto Lee, Ron Swegles, Melinda Hamilton, David Whittum and remarks.

Mayor Lee called a recess at 6:55 p.m.

Mayor Lee reconvened the meeting at 7:05 p.m. and took roll call with the new Council seated.

**ROLL CALL**

**PRESENT:**

Mayor Otto Lee  
Vice Mayor Anthony Spitaleri  
Councilmember John Howe  
Councilmember Ron Swegles  
Councilmember Melinda Hamilton  
Councilmember Christopher Moylan  
Councilmember David Whittum

**ABSENT:**

None

**STAFF PRESENT:**

City Manager Amy Chan  
Assistant City Manager Robert Walker  
City Attorney David Kahn  
Director of Finance Mary Bradley  
Director of Community Development Hanson Hom  
Director of Public Works Marvin Rose  
Neighborhood Preservation Manager Christy Gunvalsen  
Superintendent of Parks Curtis Black  
Intergovernmental Relations Officer Yvette Agredano  
City Clerk Gail Borkowski

**PUBLIC ANNOUNCEMENTS**

Arthur Schwartz, co-chair of the solar subcommittee for Cool Cities, announced upcoming solar educational sessions being held at the Sunnyvale Community Center.

**CONSENT CALENDAR**

Director of Finance Mary Bradley pulled Item No. 1.F.

Councilmember Swegles pulled Item No. 1.H.

Vice Mayor Spitaleri moved and Councilmember Hamilton seconded to approve the consent calendar with the exception of Item 1.F. and Item 1.H.

Vote: 7-0

**1.B. Approval of Draft Minutes of December 4, 2007**

**1.C. Approval of Draft Minutes of December 18, 2007**

**1.D. Approval of Information/Action Items – Council Directions to Staff**

**Fiscal Items**

**1.E. RTC 08-006 List of Claims and Bills Approved for Payment by the City Manager – List No. 380**

Staff Recommendation: Council reviews the attached list of bills.

**Contract Items**

**1.F. RTC 08-008 Award of Request for Proposals No. F0708-30 to Conduct a Solid Waste Utility Cost of Service Study and Approval of Budget Modification No. 28**

Director of Finance Mary Bradley stated she pulled this item in order to clarify that the contract amount listed as a recommendation on the Council agenda is incorrect. The amount should be listed as \$77,580 rather than the amount listed.

Public comments opened at 7:17 p.m.

No speakers.

Public comments closed at 7:17 p.m.

MOTION: Councilmember Howe moved and Councilmember Hamilton seconded to approve the revised staff recommendation:

- Council awards a contract, in substantially the same form as the attached draft and in the amount of \$77,580 to HF & H Consultants, LLC, to conduct a solid waste utility rate cost of service study;
- Council approves a project contingency in the amount of \$5,000; and
- Council approves Budget Modification No. 28.

VOTE: 7-0

**1.G. RTC 08-004 Award of Contract for On-Call Mechanical Maintenance and Repair Services at the Water Pollution Control Plant (F0710-49)**

Staff Recommendation: Council awards a one-year contract, in substantially the

same form as the attached draft blanket purchase order and in an amount not to exceed \$75,000, to D.W. Nicholson Corporation for on-call mechanical maintenance and repair services at the Water Pollution Control Plant.

### **Other Items**

#### **1.H.      RTC 08-010      Authorization to Submit Grant Request Not to Exceed \$200,000 to Department of Energy for Solar American Cities Initiative**

Councilmember Swegles stated he pulled this item in order to compliment staff on locating a grant that could assist the City in expediting some of the solar savings that are available.

Public comments opened at 7:18 p.m.

No speakers.

Public comments closed at 7:18 p.m.

MOTION: Vice Mayor Spitaleri moved and Councilmember Swegles seconded to approve staff recommendation:

- Council approves authorization to submit a grant request not to exceed \$200,000 to the Bay Area Air Quality Management District for Citywide coordination of sustainability efforts/climate action planning;
- If funding is received, Council authorizes staff to expend funding in accordance with grant guidelines and City policies.

VOTE: 7-0

### **STAFF RESPONSES TO PRIOR PUBLIC COMMENTS**

None.

### **PUBLIC COMMENTS**

Mayor Lee recognized the Sunnyvale employee associations for providing food and flowers for tonight's Council meeting.

David Hindin stated he informed the San Jose Mercury News that the agenda they published for tonight's meeting neglected to list that an election will be occurring. Hindin stated the newspaper made the decision not to make a correction.

Hindin stated the word "agendize" is not an English word and he proposed that Council make a resolution for 2008 that the City will ban the use of "agendize".

Councilmember Moylan inquired if Hindin had a suggestion on what word could be used instead and Hindin suggested "add to the agenda" be used in place of "agendize".

Joan Coston, vice chair of the Sunnyvale Chapter of Service Employees International Union (SEIU), stated they are looking forward to upcoming negotiations with the City in the next few months. Coston requested Council keep in mind the upcoming negotiations while working on the budget.

Two executives from a manufacturer of a local sustainable building materials company stated they were asked by Mayor Lee to make recommendations as to what the City might do from a green and sustainability standpoint. A report was compiled and presented to Council. The company recommended that the City establish a high-level, full-time position for a sustainability coordinator and address the funding for such position in the upcoming budget. The executives stated they listed their recommendations in the report and identified that the coordinator position would oversee those recommendations.

Mayor Lee presented the executives with a proclamation for their work on the report.

Eleanor Hansen requested Council find a world-class replacement for City Manager Chan. Councilmember Whittum confirmed with Hansen that she would recommend citizen's share their input with the search committee for the new City Manager.

Councilmember Hamilton stated at the January 29, 2008 Council meeting, Council will be discussing the process they will use to search for a new City Manager and suggested Hansen may want to attend that meeting and share her input.

## **PUBLIC HEARINGS/GENERAL BUSINESS**

### **2. RTC 08-001 Annual Public Hearing - Potential Council Study Issues and Budget Issues for Calendar Year 2008**

Intergovernmental Relations Officer Yvette Agredano presented the staff report.

Councilmember Hamilton inquired if the ranking process can be changed to address the issue of having to rank a large number of items. Councilmember Hamilton explained that since there is no way staff would be able to complete that number of items, ranking that many items does not make sense. Councilmember Hamilton suggested Council address a change to the system of ranking and asked if it would be appropriate to discuss this evening.

Councilmember Moylan stated he agrees with Councilmember Hamilton's comments. Councilmember Moylan stated he sent a suggestion to staff to have each department submit an estimate as to how many hours they can spend on study issues. Councilmember Moylan stated with this information, Council would be able to figure out (by looking at those hours) what fraction of items could be completed. Councilmember Moylan stated many departments will have enough hours to do all the study issues on the list so there would not be a need to rank any items. Council would just need to decide whether to keep the items on the list or take them off. Councilmember Moylan stated for a department with a huge number of items,

Council could use the six sigma process which would take out the top third. Councilmember Moylan explained that with this system, the top third would be the most that the department could do and there would be no need to rank the bottom items. Councilmember Moylan inquired if Council could obtain the total number of hours each department expects to devote to study issues.

City Manager Amy Chan stated staff is in the process of collecting the information per Councilmember Moylan's question and will return to Council in a few days.

City Manager Chan addressed Councilmember Hamilton's earlier question and explained that Council could discuss the study issue process this evening. City Manager Chan requested that Council provide as much notice to staff as possible if they choose to change the study issue process.

Councilmember Hamilton inquired if staff would be able to provide Council with an approximate amount of hours that they could spend on study issues over the year. City Manager Chan stated the manner in which items are prioritized and the number of hours attached to the item will affect the number of items that staff can accomplish.

Councilmember Hamilton questioned if each department identified the number of hours they are able to work on study issues, then would there be some easy way that Council could track the hours attached to each study issue as they rank their choices (in order to identify how close they are getting to the department total). City Manager Chan stated once priorities are identified, staff can set the cutoff point based on the collective priority ranking. Councilmember Hamilton stated she is suggesting that each department identify the total amount of hours they would be able to spend on study issues and then Council would rank items so as to meet double the number of acceptable hours set by each department. Councilmember Hamilton stated the reason to allow Council to rank double the amount of allowable hours would allow for the shifting of priorities.

Assistant City Manager Robert Walker requested Council wait before proceeding on changes to the process until Council receives the number of hours that each department would be able to spend on study issues (as directed by City Manager Chan). Assistant City Manager Walker explained that the process is more complex than just the total number of hours for each department and that in order to be helpful Council will also need to know how many hours are available in each work unit.

Councilmember Moylan explained to Councilmember Hamilton that he does not believe the process needs to be that difficult and suggested Council receive public comments and then discuss the process after that.

Public comments opened (time not recorded).

Connie Portele and Randy Ehlers spoke in favor of studying neighborhood non-

residential parking issues near Wright Avenue and Fremont Avenue and offered supporting reasons.

Councilmember Swegles inquired if Council should do a separate study for this issue. Director of Community Development Hanson Hom stated a study issue is coming before Council on February 12 dealing with shopping center parking because of overflow parking into adjacent residential neighborhoods. Director Hom stated as a part of that process, Council could evaluate if the issues have been fully addressed and provide further direction or Council could define an additional study issue.

Councilmember Swegles inquired if Director Hom believes this issue should be added to the current study issue. Director Hom stated there is definitely an overlap in the evaluation of the parking requirements as the current study issue focuses on both residential and shopping center parking issues.

Councilmember Swegles confirmed with Director Hom that parking issues for medical office buildings is a separate study issue that staff has developed for Council's consideration. Councilmember Swegles stated he will sponsor that study issue.

Councilmember Whittum stated he has suggested a study issue regarding parking exemption permits and inquired if parking permits might assist Portele with her parking concerns. Parking permits could be purchased through the City's online permit system.

Portele confirmed with Director Hom that the study issue being presented to Council on February 12, 2008 will not address the item of medical office parking, rather its main focus is on shopping center and residential parking standards. Director Hom stated that is why staff has developed a separate study issue for medical office use.

Councilmember Moylan confirmed that Portele is requesting that Council rank Community Development Department (CDD) (CDD-48 Parking Requirements for Medical Office Buildings) high on their list.

Councilmember Whittum asked Ehlers if he felt non-resident limited parking with residential parking permits would be helpful. Ehlers stated the proposal is intriguing.

Joel Wyrick, Executive Director of the Sunnyvale Downtown Association, submitted a proposal for Council to assist with funding the association's proposed projects for 2008. Wyrick stated the priority on his list would be for Council to assist with funding a newly proposed event "Sun Fest" which is an outdoor green sustainable Festival to be held on September 6 and 7, 2008.

Councilmember Moylan inquired, as a point of order, how Wyrick's request fits into the current topic of study issues. Wyrick stated he is proposing to have Council study the viability of funding this proposal. Councilmember Moylan inquired if this

item could be part of CDD-12 (Commercialization and Promotion of Sunnyvale). Wyrick stated staff directed him to discuss his proposal as part of tonight's agenda.

Councilmember Whittum inquired if Wyrick is requesting this item be studied or addressed as a budget item. Wyrick stated funding is tight in the City and he feels this item is very valuable and should be studied, although he is not asking for 100 percent of the funding from the City.

Councilmember Whittum inquired how he would refer this item if later in the meeting he wishes to sponsor this item. Assistant City Manager Walker identified that this item would be covered by a couple of items in the study issue packet, one being the budget issue for a sustainability coordinator or CDD-12 (Commercialization and Promotion of Sunnyvale).

Councilmember Hamilton stated she was under the impression that the reason a Business Improvement District (BID) was created was in order for the downtown to become more self-sustaining. Wyrick stated the association needs start up money in order to be sustainable.

Councilmember Whittum stated as part of this study he would like to add that staff returns with a budgeted analysis of this proposal. Councilmember Whittum stated this appears to be a budget issue item, but he is fine if Council wishes to include this proposal as part of CDD-12 (or whichever is appropriate). Councilmember Whittum stated he does not want to see this proposal disappear as it appears to offer benefits to the downtown and is worth analyzing.

Councilmember Whittum clarified that he wished to sponsor this proposal as a budget issue with flexibility given to staff to move it to where it fits for analysis (such as moved to a study issue CDD-12).

City Manager Chan explained that any Councilmember may sponsor a study issue without a formal motion, either in this setting or after the meeting, until January 25, 2008. Council may also suggest to staff to consider a budget issue. City Manager Chan explained that study issues are policy oriented; therefore, as Council considers an issue for staff to study, it is helpful if Council identifies the policy issues that Council would like staff to explore. City Manager Chan stated it would be helpful for Council to submit any study issues as far in advance as possible in order to put the appropriate paper together for Council's consideration.

Councilmember Whittum confirmed with City Manager Chan that staff will review Wyrick's proposal to see if it should be included in CDD 12 or be considered as a separate issue.

Suzi Blackman, President and CEO of Sunnyvale Chamber of Commerce, stated the chamber would like Council to support the Kaiser Permanente left turn lane study issue, and for Council to also support a study issue regarding adding a resolution to support a socially-responsible service contractor code of conduct.



Mayor Lee stated the resolution is on the agenda for February 12, 2008. Mayor Lee clarified that Blackman's proposal is to pull the resolution and have it become a study issue.

Councilmember Howe stated he would sponsor the resolution to support a socially-responsible service contractor code of conduct as a study issue.

Werner Gans stated he does not agree that there is a need for a left hand turn out of Kaiser. Gans stated if the left turn from Kaiser Permanente is ranked high enough to study, City staff should conduct the study and Kaiser should pay for the study.

Councilmember Moylan stated this item is listed as study issue DPW 20 (Reconsider allowing left turns out of the Kaiser Hospital facility onto Homestead Road). Councilmember Moylan confirmed that Gans does not support studying this issue.

Jim Griffith, chair of the Board of Library Trustees, stated the board voted 5-0 to recommend a study issue and budgetary issue for 2008. Griffith stated the board is recommending a study issue to examine the purchase and implementation of an automated return materials handling system for the library. Griffith stated the board is also requesting a budget modification to the library budget in the amount of approximately \$12,000 to offset the fees charged to place books on hold. Griffith stated Sunnyvale is the only library in the area that charges a fee to place a book on hold.

Pat Plant, chair of Housing and Human Services Commission, stated the commission would like Council to rank CDD 40 (Determine the Need and Feasibility of a Multi-Service Center to Serve the Extremely Low and Very Low Income Populations), and CDD 41 (Determine the Feasibility of Developing a City Supported Community Multi-Service Center to Serve At-Risk Youths to Prevent Crime) high along with the four CDD study issues related to Below Market Rate (BMR) units.

Councilmember Moylan stated staff has recommended against conducting CDD 41 because staff stated that issue is a duplication of efforts already being performed. Plant stated the commission believes more activities are needed.

Councilmember Howe stated that owners of BMR units are allowed approximately two percent in appreciation per year and confirmed that Plant would like that percentage to be increased. Councilmember Howe explained that increasing the percentage would increase the cost of the home for the next purchaser. Councilmember Howe inquired if discussion occurred among the commission regarding this concern and Plant stated the commission did not discuss how the increase would affect the next buyer.

Kevin Jackson, speaking on behalf of the Bicycle and Pedestrian Commission, stated the commission supports DPW 7 through 12 (#7 Plan line study to accommodate bicyclists and pedestrians; #8 Policy supporting connections to

regional bike facilities, #9 Education campaign or policy development regarding safe construction zone traffic control for bicyclists and pedestrians, #10 Revise level of service policy to incorporate bicycle and pedestrian safety, #11 Update/Review of the Corner Vision Triangle Municipal Code Ordinance, #12 School Transportation Demand Management Opportunities).

Speaking on his own behalf, Jackson requested a study issue to repair the Council policy on boards and commissions. Jackson stated the changes were made in the name of clarifications; however, they have introduced contradictions and betrayed the promise of no changes to the Council policy as listed in the May 1, 2007 staff report.

Mayor Lee inquired if this item was already on the agenda. Assistant City Manager Walker stated a section of the policy regarding free speech will be on the January 29, 2008 agenda; however, the speaker is suggesting a complete revision to Council's policy on boards and commissions.

Mayor Lee confirmed with Jackson that he is suggesting the city attorney review the changes made since the May 1, 2007 staff report was issued. Jackson stated he would like the city attorney to offer his opinion on whether the changes that were made conflict with the May 1, 2007 staff report which claimed that no changes were made to the policy. Jackson stated additionally he would like to have the issues of concern discussed and then followed up with a public hearing.

Bob Kinder, Parks and Recreation Commission, stated the commission supports DPR 06 (Consider impacts of providing Sunnyvale resident discounts to City recreation programs for active duty military and their families) and urged Council to place it as a high priority.

Tap Merrick stated he is not in favor of a left turn out of Kaiser Permanente. Merrick stated he supports a more comprehensive study issue review which would include the following items:

- No left turn onto Homestead Road;
- Opening up alternate exits out of Kaiser (including Forge Drive in Cupertino), and
- Supporting the neighborhood's ongoing efforts to limit the scope and size of development at Santa Clara Square, which is currently planned to be built at Lawrence and El Camino.

Merrick stated if the study issue is approved then the work plan shall come back to Council for review and approval.

Councilmember Hamilton stated Forge Drive is being mentioned as a possible exit out of the Kaiser facility, but it is part of the City of Cupertino. Councilmember Hamilton inquired as to what jurisdiction Council would have over this street and would it be feasible to add this exit into the study issue. Director of Public Works Marvin Rose stated the study would include the type of involvement the City of

Cupertino would have, how the original Environmental Impact Report (EIR) identified the traffic impacts of Forge versus Homestead, and what control the City would have over the area.

Councilmember Hamilton asked Merrick how Kaiser was tied into the Santa Clara Square and Merrick stated that Santa Clara Square will increase the traffic in his neighborhood. Merrick stated both Kaiser and the Santa Clara Square are controlled by the City of Santa Clara and should Kaiser speak to the Santa Clara City Council about traffic issues, they will carry more weight than a Sunnyvale resident.

Councilmember Hamilton stated she would like to sponsor the expansion of study issue DPW-20 to include Forge Drive.

Vice Mayor Spitaleri inquired as to what authority the City of Sunnyvale would have to study the traffic impacts of Santa Clara or Cupertino streets. Director Rose stated the basis for studying these areas would be a traffic analysis. Director Rose stated a traffic analysis can be independent of the jurisdiction based on where traffic would flow given certain alternatives. Director Rose stated as part of the alternatives, staff would have to look at what control and options each party has and all parties would need to reach a cooperative agreement.

Councilmember Moylan stated from his standpoint it would be inappropriate to have a study issue in which the current occupant of the piece of land being studied is required to lobby for the City of Sunnyvale. Councilmember Moylan asked Merrick if it is his request that Council rank DPW 20 high or low. Councilmember Moylan stated that is all that Council needs to know at this point. Merrick stated if it is Council's plan to study only the no left turn onto Homestead, then he does not support the study issue. Merrick stated he does support the study issue (and a high rank) if it is expanded to include exploring alternate exits out of Kaiser and also traffic issues associated with the upcoming Santa Clara Square project of 490 units.

Councilmember Moylan stated Santa Clara Square is a completely unrelated property and he could not imagine it being part of the study. Merrick stated the traffic issues from Santa Clara Square are a combined problem with Kaiser. Merrick stated what is happening at both Santa Clara Square and Kaiser will dramatically affect traffic issues. Merrick stated he would rather this issue be done right once the first time, than correct sections at a time as different issues come up.

City Manager Chan stated staff is on top of the Santa Clara Square development; however, it is not appropriate for Council to consider the project for two reasons. City Manager Chan stated that the study of Santa Clara Square could create a scheduling issue as it may not match with the Santa Clara Square development schedule and additionally, staff is already looking at the traffic and neighborhood impacts of the development. City Manager Chan suggested staff sit down with the neighborhood and share with them the comments the City has already provided to the City of Santa Clara. Staff can also provide the schedule of meetings in which neighbors could weigh in on project discussions at the City of Santa Clara.

City Manager Chan stated in response to Council's jurisdiction comments, Council is correct in that the City is not able to tell another city to stop their development. City Manager Chan stated that the City may however, identify the impact that a project will have on the City and ask the neighboring city to mitigate those impacts.

Councilmember Hamilton stated she wished to correct her previous statement in which she stated she would sponsor expanding DPW 20 to include Forge Drive. Councilmember Hamilton stated she wished to expand DPW 20 to include all of the exits added to the Kaiser study.

Councilmember Swegles stated he would co-sponsor the expanded study issue with Councilmember Hamilton. Councilmember Swegles clarified that he did not wish to study areas where walls have been put up at exits, because those walls were put up to protect other residential neighborhoods. Councilmember Hamilton stated the reason she wants to include all exits is because she wants to have all the alternatives included and should an exit be problematic for a neighborhood, it will come out in the study. Councilmember Swegles stated staff time is always a consideration and if known problem areas are included, that can be a waste of staff time. Councilmember Swegles stated he agrees with requesting staff to look at alternative exits. Councilmember Hamilton stated she will speak to Director Rose and find out how much staff time will be involved in reviewing all exits, blocked or not.

Mary Ann Barnes, Senior Vice President for Kaiser Permanente stated they support DPW 20 as a top priority for study.

Vice Mayor Spitaleri confirmed with Barnes that Kaiser wants a left hand turn lane out of Kaiser studied. Barnes stated Merrick wants a more comprehensive study and Kaiser did not make any formal agreement with that request. Barnes stated Kaiser's interest is that this study be done quickly due to the current dangerous traffic situation.

Councilmember Swegles inquired why Kaiser has not advised their customers that they are able to use the Forge Drive exit. Barnes stated Kaiser would need to build a road for that exit as it is not a formal exit, rather is used by construction trucks. Barnes stated they have not formalized a road for that area as there are many future buildings being planned for that area. Barnes stated Kaiser is in support of studying that area but Kaiser would need to discuss that with the City of Cupertino.

Councilmember Moylan stated given that Kaiser is asking Council to rank this item high and if it does get ranked high enough to be studied, one possible outcome might be a Council action which grants a left hand under certain conditions. One of those possible conditions could be a requirement that Kaiser obtain approval from a neighboring city to put in another entrance or exit. Councilmember Moylan confirmed with Barnes that regardless of possible conditions placed on an approval for a left hand turn, Kaiser does wish to have Council place this item high on the

study issue list.

Councilmember Howe asked staff to give Council information as to whether the City of Sunnyvale has any land use authority over the hospital site.

Alysse Ohara, employee of Kaiser, stated she lives in the affected neighborhood. Ohara stated the study regarding the left hand turn is very important as it is a dangerous situation. Ohara stated drivers are currently making left hand turns without authorization to do so. Ohara supports studying DPW 20 and ranking it high on the list. Councilmember Swegles inquired why Ohara does not use the Forge exit. Ohara stated Forge is a one-lane path that is not well lit or paved.

Dr. Danny Sam, physician at Kaiser and resident in the affected neighborhood, stated he recommends DPW 20 be a top priority study issue.

Robert Wyckoft, resident of the affect neighborhood, expressed his support for ranking DPW 20 high on the study issue list. Wyckoft stated the current no left turn situation at Kaiser is an irritating inconvenience to Sunnyvale residents.

Ellen Lockhart stated her support of ranking DPW 20 high on the study issue list. Lockhart expressed her frustration with not being able to turn left and also explained that none of the people she knows drive through the neighborhood, rather they turn right and then have to make a u-turn.

Sandra St. Amour stated her support for a left hand turn onto Homestead. St. Amour stated she is not interested in going into the surrounding neighborhood; rather she merely wants to make a left hand turn.

Jerry Yu, employee of Kaiser and resident of Sunnyvale, stated he supports ranking DPW 20 high as it is a safety issue with having to make a u-turn. Yu stated part of his job is to look at member complaints, and a high percentage of the complaints center around not being able to turn left onto Homestead. Councilmember Swegles inquired if Yu has tried using the Forge exit. Yu stated he has but it is not a paved road and there are a lot of holes on the road. Councilmember Swegles stated there are not a lot of holes on the road.

David Newswanger, physician at Kaiser, stated he urged Council to place DPW 20 high on their priority list.

Elaine O'Kennedy stated DPW 20 should be ranked extremely high due to the dangerous condition as people are turning left regardless of the sign.

Norma Medlin, member of Kaiser, stated it is important to have compassion for those leaving Kaiser. Medlin stated most people leaving Kaiser are not feeling very well and they have to travel through a dangerous situation. Medlin stated she had never meandered through the adjoining neighborhood. Medlin urged Council to rank this item high.

Wayman Perry stated he supports ranking DPW 20 high. Perry stated he sums up this entire issue by the fact a solution was found where a problem did not exist.

Rose Kausek, chair of Heritage Preservation Commission, stated the commission urges Council to rank the proposed study issue CDD 36 (Onizuka AFS Artifacts) high on their list. Councilmember Moylan stated staff is recommending not to do this study because the base reuse and closure process has not been completed. Staff has suggested that a possible outcome of the closure process would be the distribution of artifacts; therefore, the study is not needed. Kausek stated the commission is concerned that if they wait until the end then some of the artifacts may be appropriated to other entities. Kausek stated she is concerned with being able to look at the artifacts list and being able to appropriate some of the items for Sunnyvale.

Mei-Ling Stefan requested Council modify CDD 17 (Noise Sub-Element Update) and add airplane noise to the study issue.

Councilmember Whittum stated he would like to sponsor an inclusion into CDD 17 of an analysis of aircraft noise contours with discussion of potential risk of commercial use of Moffett.

Councilmember Whittum inquired if staff has a recent report that describes the risks associated with an incremental increase in Moffett Park commercial use. City Manager Chan stated Moffett Field current use is still under their EIR. City Manager Chan offered that the mayor could possibly suggest to NASA Ames that they hold a neighborhood outreach meeting to talk about community concerns over this issue. City Manager Chan stated there is very little the City can do in the case of a federal agency, but certainly the City can lobby local representatives and NASA Ames to better address the City's issues and concerns.

Barbara Fukumoto, member of Cool Cities, requested Council fund the first step in the recently adopted Mayor's agreement, which is to conduct an audit of greenhouse gasses currently emitted by the Sunnyvale community including homes, offices, businesses, schools and vehicles.

Hany Sclim asked Council to rank CDD 6 (Business Identification on Ground Signs) high on their study issue list.

Arthur Schwartz asked Council to approve a position for a "Sustainability Manager" and find funding for the position within the budget.

Schwartz stated he supports a study issue to look at all conflicts within the current Council policy on boards and commissions, including the free speech issue.

Vikas Kapur proposed Council study adding any high-density developments around the Raynor Activity Center. Kapur stated he wants to see a transparent City Council,

a greener City, and listed a number of other items.

Councilmember Whittum stated he plans to sponsor study issues for a number of the items that Kapur brought up during his discussion.

Eleonar Hansen stated her interest is adequacy of off-street parking within the Cal-train and northern downtown area. Hansen stated she does not agree with restricted parking in residential neighborhoods.

Brandon Sulser, chair of the Planning Commission, stated the commission ranked seven items. Councilmember Moylan stated there were five study issues whose origins originated from the Planning Commission and yet they were not included in the seven items that were ranked. Sulser stated several items did not receive the necessary majority vote in order to move forward. Sulser stated there were fourteen items which were not ranked in at all.

Thom Mayer urged Council to consider adding additional anti-drunk driving enforcement events.

Mayer requested a study issue to look at extending the set of rules restricting alcohol advertising (which is visible from the outside) as currently in place for gas stations, to other grocery stores, mini-marts, and liquor stores.

Public hearing closed at 10:05 p.m.

Councilmember Moylan stated he would like to sponsor a study issue for a cost benefit analysis of implementing a circulation identification system as well as a budget modification to eliminate the library book hold fee.

Councilmember Moylan requested that any items Council dropped last year, not reappear this year on the study issue lists.

Councilmember Moylan stated he has a suggestion for a new study issue process. Councilmember Moylan stated the assistant city manager made a valid point that all hours in a department are not equivalent and transferable. Councilmember Moylan stated with that caveat in mind, staff would come up with a rough estimate of the total number of staff hours in each department for study issues. Council could then drop or defer items, and then Council would be able to see how many remaining hours are left for the remaining study issues. Councilmember Moylan stated if the number of study issues left is less than the total number of hours that department has for the year, then they do not need to be ranked and Council can move on to the next department. Councilmember Moylan explained that if the number of items to rank is more than the department's hours, then instead of ranking them all, Councilmembers would vote on a third of the items. All study issue items that receive a vote from anyone will be ranked and all the rest would be deferred. The items that receive more votes will be ranked higher on the list.

Councilmember Hamilton stated she will co-sponsor the library study issue and budget modification proposed by Councilmember Moylan.

Councilmember Hamilton stated study issue items still need to be ranked as a matter of setting Council's priorities. Councilmember Moylan stated they would all be priorities for the year and it would not matter which was done first. Councilmember Hamilton stated setting priorities does matter and offered an example. Councilmember Hamilton explained that if Kaiser was ranked high enough to study, they would want that item studied as soon as possible due to safety concerns. Councilmember Moylan stated the order in which Council ranks them is not the order staff uses to work on them. City Manager Chan stated staff does take Council's priorities and work on them in that order. City Manager Chan stated the reason some items come back sooner is because they take a shorter time to complete, but all work on study issues is started based on Council priorities.

Councilmember Hamilton stated the proposed process appears to require a lot of quick math calculations.

Councilmember Whittum stated he would like to co-sponsor the medical parking study issue with a request to include consideration of a parking exemption item. Councilmember Whittum identified there is a connection to DPW 19 (Heritage Neighborhood North of Caltrain Parking Management Study). Councilmember Hamilton suggested the parking exemption not be combined with the medical parking as they should be two study issues in order for the exemption to cover a broader range of area. Councilmember Whittum stated that could be discussed at the study issue workshop.

Mayor Lee stated it is 10:14 p.m. and asked Council if they wish to continue with the agenda.

Councilmember Hamilton stated there have not been any comments on the ranking system other than Councilmember Moylan's suggestion.

Mayor Lee stated he did not see that the study issue process needed to be dealt with this evening and asked Councilmember Moylan to draft up a proposal and distribute to Council information on how his study issue process would work. Councilmember Hamilton inquired if this process needs to be voted on by Council and Mayor Lee stated Council can deal with that issue prior to January 25, 2008. Councilmember Hamilton stated if Council needs to vote on the process then it would need to occur at the next Council meeting on January 15, 2008.

Staff Recommendation: No action is needed at this time. Councilmembers may request additional study issue papers and/or budget issue papers to be developed for review at the Annual Study/Budget Issues Workshop.



**3. RTC 08-013 Zoning Code Enforcement and Fines for the Goodwill Donation Trailer at Lakewood Shopping Center at Lawrence Expressway and Lakehaven Drive**

Neighborhood Preservation Manager Christy Gunvalsen presented the staff report.

Councilmember Howe confirmed with Manager Gunvalsen that no other citations (other than citations for not being permitted in to operate in the zone where they are located) have been issued to Goodwill.

Councilmember Swegles notated an error on Attachment A in the staff report. Councilmember Swegles stated Casa De Amigos mobile home park should be Plaza Del Rey instead (as it is Plaza Del Rey on both sides of the street).

Public hearing opened at 10:21 p.m.

Frank Kent, President of Goodwill Industries, stated fines continue to accrue against Goodwill. Kent stated his organization has not been able to come up with a copy of a permit as they originally thought existed. Kent stated they interviewed every business and resident in the area and have found only one resident who wishes to have the trailer removed from the site.

Kent stated a City staff report presented to the mayor in August 1982 recommended approval (by staff and the Planning Commission) of the concept of permanent trailers as donation centers for used household goods.

Councilmember Moylan identified that the staff report states that the City notified Goodwill in August 2007 that they were in violation of the City's zoning and that someone had complained. Councilmember Moylan verified with Kent that the City notified Goodwill again in September 2007 with a final deadline of November 12, 2007, before fines started to accrue. Councilmember Moylan asked Kent why the trailer was left at that location after all these notices and with fines starting to accrue. Kent stated they have not removed the donation trailer because they do not feel there is any need to remove it. Kent stated they believed a permit was in existence allowing them to be at that location, but have not been able to locate the permit. Kent stated they did not remove the trailer because that would have meant 25 individuals would not have been served due to loss of revenue. Kent identified that this loss to Goodwill would have occurred over just one complaint.

Councilmember Moylan asked Kent what he asking Council to do given the fact that the trailer is not permitted at its present location. Kent stated they do not agree that they are prohibited from being at their present location. Kent stated they are trying to avoid seeking legal counsel to defend their position. Councilmember Moylan inquired if Kent disagrees that the site is zoned C-1 or with the contention that trailers are not permitted in sites zoned C-1. Kent stated he disagrees with that but he is not an attorney. Kent stated Goodwill does not believe they are in violation of anything that has been established or pointed out to them. Councilmember Moylan

stated the issue is whether the trailer is entitled to be at that location and Kent stated it has been at that location for at least ten years. Kent stated they do not understand why all of a sudden they are in violation after having been present at the location for a number of years before. Councilmember Moylan stated there are probably violations going on all over the City, but if no one complains then no action is taken. Manager Gunvalsen stated code enforcement is complaint based; however, code enforcement does proactively enforce the Sunnyvale Municipal Code requirements when it pertains to first priority issues.

Councilmember Moylan asked Kent to explain what he is asking Council to do and Kent stated they are requesting to stay in their present location without any cost to Goodwill Industries of Santa Clara County. Councilmember Moylan stated he will check later with the city attorney but he does not believe granting that request is within Council's power.

Councilmember Howe inquired as to how long Kent believes the collection center was at its present location. Kent stated he can not prove this but it is his opinion that the collection center has been at its present location since 1982.

Councilmember Howe asked staff when the C-1 zoning for this area was established. Director Hom stated prior to 1982, donation trailers were not allowed in Sunnyvale at all. Director Hom stated in 1982 a study was done to consider what zoning districts would allow donation trailers because they were recognized as a desirable use in the City. Director Hom stated at that time, zoning districts C-2 and C-2/PD were amended to allow donation trailers with a special permit; however, donation trailers were not approved in a C-1 district at that time.

Mayor Lee left the dais.

Councilmember Whittum stated he wants to be clear that this donation trailer was never legal during the time it was in place and questioned what made it illegal. Director Hom stated prior to 1982 donation trailers were not an allowed use in the City. Director Hom stated staff does not have any evidence that this donation trailer existed prior to 1982. Director Hom stated Goodwill did apply for a Use Permit in 1989 to have a donation trailer at this site which was then withdrawn after they found out it was a C-1 zoning district and would not allow the trailer.

Councilmember Whittum inquired what Kent recalls as the earliest date that the trailer would have been at its present location and Kent stated he was not with Goodwill prior to 2004 and therefore, he is not able to state when the first donation trailer was placed in Sunnyvale.

Thom Mayer stated he sent in a photograph to the City showing the ongoing problem of debris collecting under and around the trailer. Mayer stated the person who controls the land is allowing vagrancy on the property. Mayer also stated that there are people living in a motor home on the property (in close proximity to the donation trailer). Mayer stated during the day the area is spotless, but at night it

needs to be kept reasonably clean. Mayer stated he would support a change in the ordinance to allow a donation trailer in C-1 zoning with a Use Permit.

Mayor Lee returned to the dais.

Councilmember Hamilton inquired as to what Mayer thought would abate the nuisance at night and Mayer stated he believes night pickups would need to occur. In addition, very large "no dumping" signs should be placed on the back doors of the donation trailer. Mayer urged Council to find a way to make this work for Goodwill and the neighborhood.

Werner Gans stated from a use standpoint, this is an appropriate site for a donation trailer. Gans stated the City ordinance needs to be brought up to date and the fines against Goodwill should be cancelled.

Pat Castillo stated she would like to see if there is any way to amend the C-1 zoning code to allow a Goodwill trailer with a Use Permit. Castillo stated if that cannot happen, then she would ask Council to direct that additional cleanups occur within the shopping center. Castillo asked Council to take into consideration the services that Goodwill performs.

Councilmember Moylan inquired when the donation trailer was located at its present location and Castillo said it has been in place since the early 1980's but has moved from side to side at the Lakewood shopping center.

Public hearing closed at 10:50 p.m.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve forgiving all current fines against Goodwill and that no new fines shall accrue over the next six months

**and** Council approves a **modified** Alternative 2 as follows:

- the property owner and Goodwill would need to either remove the donation trailer or apply for a zoning map or text amendment and a Special Development Permit within six months.

City Attorney David Kahn stated the way the City ordinance is currently structured, Goodwill could petition to have their fines waived by appealing to the Community Development Director who would then make a determination whether to waive the fines based on the facts of the case. City Attorney Kahn stated Council is not part of the administrative hearing process and would not be able to waive the fines.

Councilmember Howe confirmed with Manager Gunvalsen that the fines go into the City's General Fund. Councilmember Howe stated Council could appropriate the exact amount out of the General Fund and then there would not be any administrative hearing officer involved. City Attorney Kahn stated the concern he would have over doing that is the allocation from the General Fund to a private corporation could implicate the gift of public funds prohibition. City Attorney Kahn

stated the appropriate way for Goodwill to address the fines is to appeal directly to the Community Development Director who would then make that determination consistent with the City statutes.

Councilmember Swegles offered a friendly amendment to change the request to waive fines into a request to advise the Community Development Director that it is Council's desire to have the fines waived.

Councilmember Howe restated his motion:

Restated MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve that the city manager shall direct staff to use the correct process to forgive all current fines against Goodwill and that no new fines shall accrue over the next six months

**and** Council approves a **modified** Alternative 2 as follows:

- the property owner and Goodwill would need to either remove the donation trailer or apply for a zoning map or text amendment and a Special Development Permit within six months.

City Manager Chan stated she does not have the authority to direct staff to waive the fines based on the current wording in the ordinance. City Manager Chan stated the hearing officer by ordinance is the Community Development Director and Council cannot provide a motion to direct the hearing officer to take an action, rather it is totally at the director's discretion.

Mayor Lee confirmed the ordinance could be changed; however, it is the hearing officer who makes the final decision. City Manager Chan stated the next step for an appellant would be to appeal the decision with the Superior Court.

Councilmember Hamilton offered a friendly amendment to remove the ability to apply for a zoning map change out of Alternative 2.

Councilmember Hamilton offered to sponsor a study issue to look at donation trailers in C-1 zoning areas and investigate what type of restrictions should be placed on them. Manager Gunvalsen stated this could be studied or Council could offer a text amendment to the ordinance which would apply to anything in the ordinance.

Councilmember Hamilton withdrew her study issue request.

City Manager Chan suggested the motion be restated.

Mayor Lee requested Councilmember Howe restated his motion.

Restated MOTION: Councilmember Howe stated he first wants it known that Council fully supports staff and that they acknowledge that staff did what they were supposed to do on enforcing the fines.

Restated MOTION: Councilmember Howe moved and Councilmember Swegles

seconded to recommend that should Goodwill appeal to have their fines forgiven, then Council recommends to the administrative hearing officer that they forgive the fines against Goodwill and that no new fines shall accrue over the next six months **and** Council approves a **modified** Alternative 2 as follows:

- the property owner and Goodwill would need to either remove the donation trailer or apply for a zoning map or text amendment and a Special Development Permit within six months.

City Attorney Kahn stated Council can express their recommendation on the fines that have already accrued, but ultimately it is the hearing officer's decision. City Attorney Kahn stated under the current ordinance, Council would not be able to give direction to staff to waive fines over the next six months; however, Council can offer a recommendation to neighborhood preservation.

Councilmember Howe and Swegles agreed.

Restated MOTION: Councilmember Howe moved and Councilmember Swegles seconded that should Goodwill appeal to have their fines forgiven, then Council recommends to the administrative hearing officer that they forgive the fines against Goodwill and Council also recommends that neighborhood preservation may want to exercise their discretion in applying any new fines over the next six months **and** Council approves a **modified** Alternative 2 as follows:

- the property owner and Goodwill would need to either remove the donation trailer or apply for a zoning map or text amendment and a Special Development Permit within six months.

Manager Gunvalsen confirmed Goodwill has not appealed to have their fines waived.

Director Hom confirmed with Councilmember Howe that the intent of the motion was for Goodwill to either remove their donation trailer or apply for a zoning map or text amendment and a Special Development Permit. Councilmember Howe added that Council is not initiating any such action under this motion.

Councilmember Moylan offered a friendly amendment to not waive the fines in the past or future but direct the Director of Community Development to apply the assessed fees toward the fee for the text amendment should the appellant choose to apply for it. Councilmember Moylan stated in other words, the zoning change is not on the table and Alternative 1b is an option but there is a fee involved to apply for the text amendment. Councilmember Moylan clarified that what he is proposing is that if Goodwill applies for a text amendment then that will count as paying their fines also. This proposal would not require a waiver of the fees in the past or the future. Councilmember Moylan stated he also likes Councilmember Hamilton's idea that the option be given to Goodwill only as a text amendment, not as rezoning of the property.

Mayor Lee explained he understands that a text amendment would allow C-1 to

have donation trailers and questioned if that would have to return to Council for approval. City Attorney Kahn stated a text amendment would have to come back to Council for approval as a zoning amendment and would be for all C-1 districts. City Attorney Kahn stated the change would be that under certain conditions (a miscellaneous permit) that donation trailers could be added to C-1 districts. Councilmember Moylan added that the donation trailers could be limited to a certain size, or a certain number of trailers per each C-1 district. Councilmember Moylan stated there are a number of conditions that could be added.

Councilmember Hamilton stated she understands what Councilmember Moylan is trying to do but from an administrative viewpoint, it would be a whole lot cleaner if the Director of Community Development makes the decision to waive the fees or not and Goodwill either pays (or not) the fees to apply. Councilmember Hamilton stated Council should not micro-manage an administrative matter. Councilmember Hamilton stated even recommending to Director Hom what he should or should not do is dangerously close to Council interference.

Councilmember Hamilton stated she is hesitant to grant a pass to a company that has been notified for the past five months as to what they were supposed to do. Councilmember Hamilton stated Goodwill has stubbornly decided to stay put and do nothing despite the notices and conversations with staff. Councilmember Hamilton stated she does not doubt that Goodwill is a good organization; rather City policies need to apply to everyone. Councilmember Hamilton stated she recommends that Council take no further action. Should Goodwill choose to appeal their fines and Director Hom waives their fines, that is fine but it is not something that Council should be involved with. Councilmember Hamilton stated Goodwill should not receive special treatment.

Councilmember Hamilton stated she agrees with the motion with the exception of giving a recommendation to Director Hom regarding past or future fines.

Councilmember Howe inquired if Council can recommend action to a City employee that is not one of the two people that report to City Council. City Attorney Kahn stated Council may not give direction directly to staff. Council many express its opinion and recommendation but it would have to be made clear that they are not giving direction. Councilmember Howe stated he wanted that added to his motion.

Councilmember Howe stated Goodwill is a valuable member of the community and they have been a decent neighbor. Councilmember Howe stated Council needs to find a way to allow this to continue for a period of time in order to allow for the donation trailer to either move or comply.

Councilmember Moylan confirmed with Director Hom that the text amendment can be initiated by either Council or applicant. Director Hom stated as the current motion stands, the text amendment would need to be initiated by the applicant.

Councilmember Hamilton requested the motion be restated before a vote is taken.

Restated MOTION: Council acknowledges that staff's actions in enforcing violation of zoning requirements in C-1 are entirely consistent with Council direction and appropriate given the ongoing violation of the zoning standards.

Councilmember Howe moved and Councilmember Swegles seconded that should Goodwill appeal to have their fines forgiven, then Council recommends, but does not direct, that the administrative hearing officer consider forgiving the fines against Goodwill. Council recognizes it is entirely the hearing officer's decision whether to waive any fines. Council also recommends that neighborhood preservation may want to exercise their discretion in applying any new fines over the next six months **and** Council approves a **modified** Alternative 2 as follows:

- the property owner and Goodwill would need to either remove the donation trailer or apply for a zoning map or text amendment and a Special Development Permit within six months.

Councilmember Howe asked City Attorney Kahn if anything in the motion was problematic and City Attorney Kahn stated the words used would not be the words he would choose. Councilmember Howe asked City Attorney Kahn to restate the motion.

City Attorney Kahn restated Councilmember Howe's motion as requested.

Restated MOTION: City Attorney Kahn stated that staff's actions in enforcing the violations of the zoning requirements in C-1 were entirely consistent with Council direction and were appropriate given the ongoing violations of the zoning standards. City Attorney Kahn stated that Council is requesting that the hearing officer give consideration to waiving the fines in light of all the facts of this case but Council is aware that the ultimate decision is entirely that of the hearing officer. Council requests that if the applicant (Goodwill) applies for a text amendment and seems to be making progress toward a resolution consistent with City ordinances (and any changes), then the administrative officer give consideration to exercising discretion as to whether or not the fines should be enforced during the period applicant is coming into compliance.

**and** Council approves a **modified** Alternative 2 as follows:

- the property owner and Goodwill would need to either remove the donation trailer or apply for a zoning map or text amendment and a Special Development Permit within six months.

Councilmember Howe clarified with City Attorney Kahn that it is implied that the direction of the Council is that any violation of the zoning code needs to be enforced.

Councilmember Swegles accepted the revised motion.

VOTE: 6-1 (Hamilton dissented)

**4. RTC 08-009 Revision of Stockmeir School Sports Field Master Plan to Accommodate New Classroom Buildings**

Superintendent of Parks Curtis Black presented the staff report.

Councilmember Swegles confirmed the Cupertino Union School District will present parking as part of their presentation.

Councilmember Hamilton confirmed with Superintendent of Parks Black that no tree removals will be required for this project.

Councilmember Moylan stated this item was reviewed by the Parks and Recreation Commission; however, minutes from that meeting were not included in the staff report. Councilmember Moylan asked for an explanation of what the arguments were on both sides of this issue. Superintendent of Parks Black stated the dissenting opinion was against Alternative 1 because the commission member had concerns over the open space decreasing in size.

Councilmember Whittum inquired as to what Council's obligations are under the agreement should Council not approve the proposed Master Plan. Superintendent of Parks Black stated the district could reexamine the project itself or the agreement. The district could decide to change the project in ways to suit Council's perspective or the district could decide to end their agreement with the City of Sunnyvale for the use of their open space land.

Public hearing opened at 11:28 p.m.

Rick Hausman, Chief Business Officer for Cupertino Union School District, stated Stockmeir School has steadily increased their enrollment over the years. As a consequence, the district has had to bus students to schools in southern Cupertino due to the overflow and because Stockmeir does not have adequate classroom space. Hausman spoke about the school's expansion plans along with plans to add additional parking spaces. Hausman stated in order for the school to enlarge, they will need to take over the facilities that the Montessori school is now occupying. Hausman stated the Montessori school would be moved to portables on their property. Hausman showed a plan of the Stockmeir property and explained the proposed changes.

Councilmember Moylan confirmed with Hausman that the community is in favor of the students being housed at their neighborhood school and not splitting the student body into two schools, regardless of how large the school will become. Councilmember Moylan stated the district owns Serra School but leases that site out. Councilmember Moylan stated as the district continues to have increased enrollment, at some point the option of reopening Serra School should be discussed. Councilmember Moylan suggested rather than losing open space, the district could have considered relocating the Montessori school from Stockmeir and



consolidating it with the Montessori school at the Serra School site. Councilmember Moylan stated it appears that the public school children are lower on the districts priority list than the tenants. Hausman stated one area of contention within the community is over the subject of reopening schools. Hausman added that the projections are that Stockmeir will grow for the next two years and then begin to decline slightly and then level off; therefore for the foreseeable future, reopening Serra School was not needed. Hausman stated if Serra School was put back into service, the district would lose half a million dollars in revenue along with the cost for operating expense which would cost half a million dollars as well.

Councilmember Moylan inquired why the district did not consider moving the Montessori school over to the Serra site and Hausman stated that Serra School is completely leased. Hausman stated reopening Serra is a possibility if it was necessary, but there are many issues that would need to be addressed at that site and for the short term, reopening would not be a solution.

Councilmember Swegles inquired how many teachers will be added since Stockmeir is planning to increase their student population by 300 (up to a maximum of 1,000 students). Hausman stated it will depend on what grade level the increase will affect, but approximately 12 additional teachers will be added.

Councilmember Swegles confirmed that the total parking spaces, including the ones that will be added, will not accommodate all the teachers and administrative staff; therefore, some street parking will be required.

Councilmember Whittum inquired if additional open space will be needed given the increase in students. Hausman stated half of their athletic field has always been used by other organizations and now it is being returned to the school so actually the open space will expand.

Councilmember Hamilton inquired if Council did not approve this revision, what would happen to the Montessori school located at Stockmeir. Hausman stated the building they are located in will be demolished by February 1, 2008, so the school would probably be out of business.

Public hearing closed at 11:48 p.m.

MOTION: Councilmember Hamilton moved and Councilmember Swegles seconded to approve Alternative 1: Council approves the proposed master plan for Stockmeir School sports field to include the new classroom buildings and facilities per Attachment B.

Councilmember Swegles suggested additional parking be found so parking issues do not affect the surrounding neighborhood. Councilmember Swegles stated he would like to suggest that the district find more parking for their staff. Councilmember Hamilton accepted the suggestion.

Restated MOTION: Councilmember Hamilton moved and Councilmember Swegles seconded to approve Alternative 1: Council approves the proposed Master Plan for Stockmeir School sports field to include the new classroom buildings and facilities per Attachment B

**with**

Council suggests more parking be found so that it doesn't overflow into the neighborhood.

VOTE: 7-0

**5. RTC 08-012 Selection of Mayor and Vice Mayor for the 2008-2009 Term**

City Clerk Gail Borkowski presented the staff report.

Mayor Lee called for nominations for mayor.

Councilmember Moylan nominated Vice Mayor Spitaleri to serve as mayor. Mayor Lee confirmed Vice Mayor Spitaleri accepted the nomination.

Councilmember Whittum nominated Councilmember Moylan. Mayor Lee asked Councilmember Moylan if he accepted the nomination. Councilmember Moylan explained he would be unable to accept the nomination due to other obligations this year and unfortunately he would not be able to devote sufficient time to the role of mayor. Councilmember Moylan stated he is willing to take on the role of mayor, but unable to accept the nomination at the present time.

No further nominations were expressed and Mayor Lee announced the nominations were closed.

By unanimous consent, Council selected Anthony (Tony) Spitaleri as mayor for a term to end January 2010.

Mayor Spitaleri took over the seat of mayor at the dais.

Mayor Spitaleri called for nominations for vice mayor.

Councilmember Howe nominated Councilmember Hamilton. Mayor Spitaleri confirmed Councilmember Hamilton accepted the nomination.

No further nominations were expressed and Mayor Spitaleri announced the nominations were closed.

By unanimous consent, Council selects Melinda Hamilton as Vice Mayor for a term to end January 2009, pursuant to the revised Council Policy adopted on December 11, 2007.

**6. RTC 08-003 2008 City Council Intergovernmental Assignments**

Intergovernmental Relations Officer Yvette Agredano presented the staff report.

Councilmember Swegles stated the Bay Area Water Transit Authority – Community Advisory Committee is no longer in existence but they are going to add a new citizen's advisory committee and the mayor has requested the City be a part of this committee.

Mayor Spitaleri opened the public hearing at 11:58 p.m.

No speakers.

Mayor Spitaleri closed the public hearing at 11:58 p.m.

Vice Mayor Hamilton stated she is interested in serving on the Grand Boulevard Task Force as either the member or alternate, and as alternative to the Santa Clara County Cities Association Board of Directors.

Councilmember Whittum stated he would like to serve on the Valley Transportation Authority (VTA) Policy Advisory Committee as the alternate.

Councilmember Moylan explained that for the next two years, Sunnyvale will not be allowed to have a full time board member position on the VTA Board of Directors; rather Sunnyvale is allowed an alternate member of the board. Councilmember Moylan explained that the alternate member is also allowed to serve on the VTA Policy Advisory Committee and Councilmember Moylan stated he would like to serve in this capacity (as alternate VTA board member and VTA policy advisory committee member).

Councilmember Swegles stated he would like volunteer to serve on the Santa Clara Valley Water District – Water Commission.

Councilmember Moylan stated he would like to retain serving on the committee that he currently serves along with the following additions:

- VTA Board of Directors as the alternate.

Councilmember Howe would like to keep his current assignments and add on:

- Santa Clara County Housing Bond Advisory Committee, Alternate.

Councilmember Lee would like to keep his current assignments.

Mayor Spitaleri stated he would like to be removed from the Grand Boulevard Task Force and the Valley Transportation Authority (VTA) Policy Advisory Committee - Alternate.

Mayor Spitaleri stated he would like to remain on the following:

- Association of Bay Area Governments – General Assembly
  - League of California Cities – Employee Relations Policy Committee
- and also accepts appointments recommended by staff to the following:
- Santa Clara County Cities Association (SCCCA) - City Selection Committee
  - U.S. Conference of Mayors.

Councilmember Swegles stated he would like to keep his current assignments along with a request to be appointment by the mayor to:

- Military Affairs Council.

Councilmember Swegles stated he would like to also serve on:

- Santa Clara Valley Water District – Water Commission.

Councilmember Whittum stated he would like to serve on:

- Santa Clara Valley Water District - Guadalupe/West Valley Flood Control and Watershed Advisory Committee
- Valley Transportation Authority, Policy Advisory Committee - Alternate

(video tape stopped – remaining comments taken from earlier comments)

Vice Mayor Hamilton stated she would like to keep her current assignments along with a request to serve on:

- Grand Boulevard Task Force
- Santa Clara County Cities Association, Board of Directors, Alternate

(video tape restarted)

City Clerk Borkowski requested roll call be taken in order to reset the electronic voting equipment.

## **ROLL CALL**

### **PRESENT:**

Mayor Otto Lee  
Vice Mayor Anthony Spitaleri  
Councilmember John Howe  
Councilmember Ron Swegles  
Councilmember Melinda Hamilton  
Councilmember Christopher Moylan  
Councilmember David Whittum

### **ABSENT:**

None

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternatives 1, 2 and 3.

Alternative 1:

- Council appoints Councilmembers to intergovernmental relations assignments (as stated).

Alternative 2:

- Council ratifies intergovernmental Council assignments not directly appointed by Council.

Alternative 3:

Council authorizes Mayor to accept the following appointments, or designate a Councilmember appointee to the following: Santa Clara County Cities Association (SCCCA) Cities Selection Committee, Military Affairs Council, and U.S. Conference of Mayors.

- Mayor Spitaleri accepts appointment to Santa Clara County Cities Association - Cities Selection Committee.
- Mayor Spitaleri designates Councilmember Swegles to serve on the Military Affairs Council.
- Mayor Spitaleri accepts appointment to the U.S. Conference of Mayors.
- Mayor Spitaleri designates Vice Mayor Hamilton as alternate to Santa Clara County Cities Association and Councilmember Howe as alternate to the Santa Clara County Cities Association – City Selection Committee (of which Councilmember Lee is the primary).

VOTE: 7-0

**7. RTC 08-011 2008-2009 Seating Arrangements for City Council**

City Clerk Borkowski presented the staff report.

Public hearing opened at 12:18 a.m.

No speakers.

Public hearing closed at 12:18 a.m.

Councilmember Moylan stated on page 2 of the staff report, the votes listed for Councilmember Howe are incorrect and should be quite a bit higher. City Clerk Borkowski stated she will look into that matter.

Vice Mayor Hamilton stated she will sit to the left of the mayor.

Councilmember Howe stated he will stay in his current seat.

Councilmember Lee stated he will sit to the right of the mayor.

Councilmember Swegles stated he will (unintelligible).

Councilmember Moylan stated he will stay in his current seat (last seat on the right of the mayor).

Councilmember Whittum (by default) will sit in the last seat to the left of the mayor.

By consensus, Council determined the seating arrangements for 2008-2009 in accordance with existing Council Policy 7.3.11.

### **NON-AGENDA ITEMS & COMMENTS**

**COUNCIL:** Vice Mayor Hamilton thanked her colleagues for electing her as vice mayor. Vice Mayor Hamilton stated she is looking forward to working with everyone in her new capacity.

Councilmember Lee stated it has been his honor to serve as mayor for the past thirteen months.

**STAFF:** None.

### **INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- Approved Minutes of the Housing and Human Services Commission of November 14, 2007
- Study Session Summary – Intergovernmental Relations – December 18, 2007

### **ADJOURNMENT**

Mayor Spitaleri adjourned the Council meeting at 12:25 a.m.

Gail T. Borkowski  
City Clerk

\_\_\_\_\_  
Date